

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 HEATHER HUA, State Bar No. 223418
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-2574
Facsimile: (213) 897-2804

6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2009-67

11 ANN ELIZABETH McCOLLISTER
12 42635 Tennessee Avenue
Palm Desert, CA 92211-7780

A C C U S A T I O N

13 Registered Nurse License No. 522754
14 Public Health Nurse No. 60505

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. On or about June 21, 1996, the Board of Registered Nursing issued
23 Registered Nurse License Number 522754 to Ann Elizabeth McCollister (Respondent). The
24 Registered Nurse License expired on October 31, 2007, and is in delinquent status.

25 3. On or about May 5, 1999, the Board of Registered Nursing issued Public
26 Health Nurse Number 60505 to Respondent. The Public Health Nurse Certification expired on
27 October 31, 2007, and has not been renewed.

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1 **JURISDICTION**

2 4. This Accusation is brought before the Board of Registered Nursing
3 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code unless otherwise indicated.

5 **STATUTORY PROVISIONS**

6 5. Section 2750 of the Business and Professions Code (Code) provides, in
7 pertinent part, that the Board may discipline any licensee, including a licensee holding a
8 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
9 2750) of the Nursing Practice Act.

10 6. Section 2764 of the Code provides, in pertinent part, that the expiration of
11 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
12 against the licensee or to render a decision imposing discipline on the license. Under section
13 2811(b) of the Code, the Board may renew an expired license at any time within eight years after
14 the expiration.

15 7. Section 2761 of the Code states:

16 "The board may take disciplinary action against a certified or licensed nurse or
17 deny an application for a certificate or license for any of the following:

18 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

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20 "(f) Conviction of a felony or of any offense substantially related to the
21 qualifications, functions, and duties of a registered nurse, in which event the record of the
22 conviction shall be conclusive evidence thereof."

23 6. Section 2762 of the Code states:

24 "In addition to other acts constituting unprofessional conduct within the meaning
25 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed
26 under this chapter to do any of the following:

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28 "(b) Use any controlled substance as defined in Division 10 (commencing with

1 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
2 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
3 injurious to himself or herself, any other person, or the public or to the extent that such use
4 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
5 license.

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7 "(d) Be committed or confined by a court of competent jurisdiction for
8 intemperate use of or addiction to the use of any of the substances described in subdivisions (a)
9 and (b) of this section, in which event the court order of commitment or confinement is prima
10 facie evidence of such commitment or confinement."

11 7. Section 490 of the Code states:

12 "A board may suspend or revoke a license on the ground that the licensee has
13 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or
14 duties of the business or profession for which the license was issued. A conviction within the
15 meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo
16 contendere. Any action which a board is permitted to take following the establishment of a
17 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
18 been affirmed on appeal, or when an order granting probation is made suspending the imposition
19 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
20 Penal Code."

21 8. California Code of Regulations, title 16, section 1444 states:

22 "A conviction or act shall be considered to be substantially related to the
23 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the
24 present or potential unfitness of a registered nurse to practice in a manner consistent with the
25 public health, safety, or welfare."

26 9. Section 125.3 of the Code provides, in pertinent part, that the Board may
27 request the administrative law judge to direct a licentiate found to have committed a violation or
28 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation

1 and enforcement of the case.

2 **FIRST CAUSE FOR DISCIPLINE**

3 **(Conviction of Substantially Related Crime)**

4 7. Respondent is subject to disciplinary action under section 2761,
5 subdivision (f) and 490, in conjunction with California Code of Regulations, title 16, section
6 1444, in that Respondent has been convicted of crimes substantially related to the qualifications,
7 functions or duties of a registered nurse, as follows:

8 a. On or about December 5, 2007 Respondent was convicted by the Court
9 on a guilty plea for violating count one of Vehicle Code section 23152 (b), (driving while having
10 0.08% and more, by weight of alcohol in her blood), a misdemeanor, in the Superior Court of
11 California, County of Riverside, Case No. INM182947 entitled *The People of the State of*
12 *California v. Ann McCollister*.

13 b. The circumstances underlying the conviction are that on or about
14 November 1, 2007, Respondent drove a vehicle while having 0.08% and more, by weight, of
15 alcohol in her blood.

16 **PRAYER**

17 WHEREFORE, Complainant requests that a hearing be held on the matters herein
18 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

19 1. Revoking or suspending Registered Nurse License Number 522754,
20 issued to Ann Elizabeth McCollister.

21 2. Revoking or suspending Public Health Nurse Number 50505, issued to
22 Ann Elizabeth McCollister.

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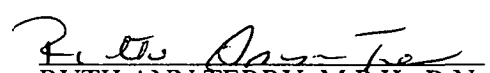
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3. Ordering Ann Elizabeth McCollister to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

4. Taking such other and further action as deemed necessary and proper.

DATED: 9/26/08


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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